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OF THE

IDAHO LEGISLATURE

SECOND REGULAR SESSION
SIXTIETH LEGISLATURE

SIXTIETH LEGISLATIVE DAY
THURSDAY, MARCH 11, 2010

Senate Chamber

President Little called the Senate to order at 10 a.m.

Roll call showed all members present except Senator Werk, absent and formally excused by the Chair; and Senators Andreason, Fulcher, and Stegner, absent and excused.

Prayer was offered by Chaplain Montie Ralstin.

The Pledge of Allegiance was led by Angela Call, Page.

The Senate advanced to the Third Order of Business.

Reading and Correction of the Journal

The JUDICIARY AND RULES Committee reports that the Senate Journal of the proceedings of March 10, 2010, was read and approved as corrected.

DARRINGTON, Chairman

There being no objection, the report was adopted and ordered filed in the office of the Secretary of the Senate.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Sixth Order of Business.

Reports of Standing Committees

March 11, 2010

The JUDICIARY AND RULES Committee reports that [S 1404](#), [S 1405](#), and [S 1406](#) have been correctly printed.

DARRINGTON, Chairman

[S 1404](#), [S 1405](#), and [S 1406](#) were referred to the Finance Committee.

March 10, 2010

The STATE AFFAIRS Committee reports out [HJR 4](#), [HJR 5](#), and [HJR 7](#) with the recommendation that they do pass.

MCKENZIE, Chairman

[HJR 4](#), [HJR 5](#), and [HJR 7](#) were filed for second reading.

March 10, 2010

The STATE AFFAIRS Committee reports it has had under consideration the Gubernatorial appointment listed below and the

Committee recommends that said appointment be confirmed by the Senate:

Rayelle Anderson to the Bingo-Raffle Advisory Board, term to expire January 7, 2013.

MCKENZIE, Chairman

The Gubernatorial appointment was referred to the Tenth Order of Business, Motions and Resolutions, and ordered held at the Secretary's desk for one legislative day.

March 10, 2010

The FINANCE Committee reports out [S 1402](#) with the recommendation that it do pass.

CAMERON, Chairman

[S 1402](#) was filed for second reading.

March 10, 2010

The RESOURCES AND ENVIRONMENT Committee reports out [H 557](#), [H 559](#), and [H 599](#) with the recommendation that they do pass.

SCHROEDER, Chairman

[H 557](#), [H 559](#), and [H 599](#) were filed for second reading.

March 10, 2010

The RESOURCES AND ENVIRONMENT Committee reports out [H 560](#) with the recommendation that it do pass, and with the recommendation that it be placed on the Consent Calendar.

SCHROEDER, Chairman

[H 560](#) was filed for second reading.

March 10, 2010

The JUDICIARY AND RULES Committee reports out [H 498](#), [S 1385](#), [S 1390](#), and [S 1398](#) with the recommendation that they do pass.

DARRINGTON, Chairman

[H 498](#), [S 1385](#), [S 1390](#), and [S 1398](#) were filed for second reading.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Ninth Order of Business.

Messages from the House

Senators Andreason and Fulcher were recorded present at this order of business.

March 10, 2010

Dear Mr. President:

I transmit herewith [H 462](#), [H 554](#), [H 620](#), [HCR 51](#), and [HJM 13](#), which have passed the House.

ALEXANDER, Chief Clerk

[H 462](#), [H 554](#), [H 620](#), [HCR 51](#), and [HJM 13](#) were filed for first reading.

March 10, 2010

Dear Mr. President:

I transmit herewith Enrolled [H 414](#) and [H 386](#), as amended, for the signature of the President.

ALEXANDER, Chief Clerk

The President signed Enrolled [H 414](#) and [H 386](#), as amended, and ordered them returned to the House.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Eleventh Order of Business.

**Introduction, First Reading, and Reference of Bills,
House Petitions, Resolutions, and Memorials**

Senator Stegner was recorded present at this order of business.

S 1407

BY FINANCE COMMITTEE

AN ACT

RELATING TO THE COMPREHENSIVE AQUIFER PLANNING AND MANAGEMENT EFFORT; AMENDING SECTION 42-1780, IDAHO CODE, TO PROVIDE FOR THE SECONDARY AQUIFER PLANNING, MANAGEMENT AND IMPLEMENTATION FUND, TO PROVIDE FOR THE CREATION OF THE SECONDARY AQUIFER PLANNING, MANAGEMENT AND IMPLEMENTATION FUND IN THE STATE TREASURY, TO PROVIDE THAT THE SECONDARY FUND SHALL CONSIST OF SPECIFIED MONEYS, TO PROVIDE FOR THE USE OF ALL MONEYS IN THE SECONDARY FUND, TO PROVIDE FOR CONTINUOUS APPROPRIATION OF MONEYS IN THE SECONDARY FUND TO THE WATER RESOURCE BOARD FOR SPECIFIED PURPOSES, TO PROVIDE THAT SPECIFIED PROVISIONS OF LAW SHALL NOT BE APPLICABLE AND TO PROVIDE FOR THE INVESTMENT OF IDLE MONEYS OF THE SECONDARY FUND AND THE RETENTION BY THE SECONDARY FUND OF INTEREST EARNED ON SUCH INVESTMENTS.

S 1408

BY STATE AFFAIRS COMMITTEE

AN ACT

RELATING TO ABSENTEE BALLOTS; AMENDING SECTION 34-1002, IDAHO CODE, TO REVISE PROCEDURES FOR APPLICATION FOR ABSENTEE BALLOTS AND TO MAKE TECHNICAL CORRECTIONS; AND AMENDING SECTION 34-1003, IDAHO CODE, TO REVISE PROCEDURES FOR ISSUANCE OF ABSENTEE BALLOTS.

[S 1407](#) and [S 1408](#) were introduced, read the first time at length, and referred to the Judiciary and Rules Committee for printing.

[H 462](#), by Business Committee, was introduced, read the first time at length, and referred to the Commerce and Human Resources Committee.

[H 554](#), by Business Committee, was introduced, read the first time at length, and referred to the Judiciary and Rules Committee.

[H 620](#), by State Affairs Committee, was introduced, read the first time at length, and referred to the State Affairs Committee.

[HCR 51](#), by State Affairs Committee, was introduced, read at length, and referred to the State Affairs Committee.

[HJM 13](#), by Ways and Means Committee, was introduced, read at length, and referred to the Transportation Committee.

The Senate advanced to the Twelfth Order of Business.

Second Reading of Bills

[H 466](#) and [H 467](#), by Agricultural Affairs Committee, were read the second time at length and filed for third reading.

[H 477](#), by Business Committee, was read the second time at length and filed for third reading.

[H 526](#) and [H 527](#), by Commerce and Human Resources Committee, were read the second time at length and filed for third reading.

[H 474](#), [H 476](#), and [H 553](#), by Business Committee, were read the second time at length and filed for third reading, Consent Calendar.

[H 625](#) and [H 626](#), by Appropriations Committee, were read the second time at length and filed for third reading.

[S 1336](#) and [S 1337](#), by Transportation Committee, were read the second time at length and filed for third reading.

[S 1397](#), by Judiciary and Rules Committee, was read the second time at length and filed for third reading.

[H 490](#), by Revenue and Taxation Committee, was read the second time at length and filed for third reading.

[H 400](#), as amended in the Senate, by Education Committee, was read the second time at length and filed for third reading.

[S 1345](#), as amended, by Agricultural Affairs Committee, was read the second time at length and filed for third reading.

[S 1361](#), as amended, by Transportation Committee, was read the second time at length and filed for third reading.

[S 1375](#), as amended, by State Affairs Committee, was read the second time at length and filed for third reading.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Fourteenth Order of Business.

General Calendar

The President declared the Senate resolved into the Committee of the Whole and called Senator Stegner to the Chair to preside during the sitting of the Committee of the Whole.

Following the adjournment of the Committee of the Whole, the President Pro Tempore called the Senate to order.

Report of the Committee of the Whole

Senator Stegner, Chairman of the Committee of the Whole, reported out [S 1382](#), [S 1383](#), and [S 1311](#), without recommendation, amended as follows:

SENATE AMENDMENT TO S 1382

AMENDMENT TO SECTION 1

On page 2 of the printed bill, in line 1, delete "or"; in line 2, delete "affinity"; in line 4, following "child" insert: "has resided with the individual without a parent present and with a lack of demonstrated consistent participation by a parent"; following line 9, insert:

"(c) For purposes of the definition in this section, "lack of demonstrated consistent participation" by a parent means refusal or failure to comply with the duties imposed upon the parent by the parent-child relationship. When determining a "lack of demonstrated consistent participation," the court may consider parent involvement in providing the child necessary food, clothing, shelter, health care and education and in creating a nurturing and consistent relationship for the child's physical, mental or emotional health and development.

(2) In determining if a petitioner or intervenor is a de facto custodian for the child, the court shall also take into consideration whether the child is currently residing with the petitioner or intervenor and, if not, the length of time since the child resided with the petitioner or intervenor."; in line 10, delete "(2)" and insert: "(3)"; in line 14, delete "(3)" and insert: "(4)"; and on page 3, in line 37, delete "appointment" and insert: "qualification".

AMENDMENT TO SECTION 3

On page 5, in line 36, delete "32-1703" and insert: "32-1705".

SENATE AMENDMENT TO S 1383

AMENDMENT TO THE BILL

On page 2 of the printed bill, following line 33, insert: "SECTION 2. That Section 19-2604, Idaho Code, be, and the same is hereby amended to read as follows:

19-2604. DISCHARGE OF DEFENDANT – AMENDMENT OF JUDGMENT. (1) If sentence has been imposed but suspended, or if sentence has been withheld, upon application of the defendant and upon satisfactory showing that the defendant has at all times complied with the terms and conditions upon which he was placed on probation, or has successfully completed and graduated from an authorized drug court program or mental health court program and has at all times complied with the terms and conditions of probation during any period of probation that may have been served following such graduation, the court may, if convinced by the showing made that there is no longer cause for continuing the period of probation, and if it be compatible with the public interest, terminate the sentence or set aside the plea of guilty or conviction of the defendant, and finally dismiss the case and discharge the defendant; and this shall apply to the cases in which defendants have been convicted and granted probation by the court before this law goes into effect, as well as to cases which arise thereafter. The final dismissal of the case as herein provided shall have the effect of restoring the defendant to his civil rights.

(2) If sentence has been imposed but suspended for any period during the first ~~one~~ three hundred ~~eighty~~ sixty-five (~~180~~365) days of a sentence to the custody of the state board of correction, and the defendant placed upon probation as provided in subsection 4. of section 19-2601, Idaho Code, upon application of the defendant, the prosecuting attorney, or upon the court's own motion, and upon satisfactory showing that the defendant has at all times complied with the terms and conditions of his probation, or has successfully completed and graduated from an authorized drug court program or mental health court program and has at all times complied with the terms and conditions of probation during any period of probation that may have been served following such graduation, the court may amend the judgment of conviction from a term in the custody of the state board of correction to "confinement in a penal facility" for the

number of days served prior to suspension, and the amended judgment may be deemed to be a misdemeanor conviction.

(3) Subsection (2) of this section shall not apply to any judgment of conviction for a violation of any offense requiring sex offender registration as set forth in section 18-8304, Idaho Code. A judgment of conviction for a violation of any offense requiring sex offender registration as set forth in section 18-8304, Idaho Code, shall not be subject to dismissal or reduction under this section. A conviction for the purposes of this chapter means that the person has pled guilty or has been found guilty, notwithstanding the form of the judgment or withheld judgment."

CORRECTION TO TITLE

On page 1, in line 7, following "JURISDICTION" insert: "; AND AMENDING SECTION 19-2604, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE AMENDMENT OF JUDGMENT".

SENATE AMENDMENT TO S 1311

AMENDMENT TO SECTION 1

On page 1 of the printed bill, in line 16, delete "one (1) or more" and insert: "more than one (1)".

The Committee also has [S 1348](#), [S 1350](#), [H 545](#), [S 1344](#), [S 1389](#), and [S 1346](#) under consideration, reports progress, and begs leave to sit again.

STEGNER, Chairman

On motion by Senator Stegner, seconded by Senator Malepeai, the report was adopted by voice vote.

[S 1382](#), as amended, [S 1383](#), as amended, and [S 1311](#), as amended, were referred to the Judiciary and Rules Committee for engrossing and the amendments thereto were referred to the Judiciary and Rules Committee for printing.

On request by Senator Davis, granted by unanimous consent, the Senate returned to the Thirteenth Order of Business.

Third Reading of Bills

On request by Senator Davis, granted by unanimous consent, [H 471](#) retained its place on the Third Reading Calendar for one legislative day.

On request by Senator Malepeai, granted by unanimous consent, [H 449](#) retained its place on the Third Reading Calendar for one legislative day.

President Little returned to the Chair.

[S 1384](#) was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Lodge arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES—Andreason, Bair, Bilyeu, Bock, Brackett, Broadsword, Cameron, Coiner, Corder, Darrington, Davis, Fulcher, Geddes, Goedde, Hammond, Heinrich, Hill, Jorgenson, Kelly, Kerby (Keough), LeFavour, Lodge, Malepeai, McGee, McKague, McKenzie, Mortimer, Pearce, Schroeder, Siddoway, Smyser, Stegner, Stennett (Stennett), Winder. Total - 34.

NAYS–None.

Absent and excused–Werk. Total - 1.

Total - 35.

Whereupon the President declared [S 1384](#) passed, title was approved, and the bill ordered transmitted to the House.

[S 1399](#) was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Hill arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES–Andreason, Bair, Bilyeu, Brackett, Broadsword, Cameron, Coiner, Corder, Darrington, Davis, Fulcher, Geddes, Goedde, Hammond, Heinrich, Hill, Jorgenson, Kerby (Keough), LeFavour, Lodge, McGee, McKague, McKenzie, Mortimer, Pearce, Schroeder, Siddoway, Smyser, Stegner, Stennett (Stennett), Winder. Total - 31.

NAYS–Bock, Kelly, Malepeai. Total - 3.

Absent and excused–Werk. Total - 1.

Total - 35.

Whereupon the President declared [S 1399](#) passed, title was approved, and the bill ordered transmitted to the House.

[H 408](#) was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Brackett arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES–Andreason, Bair, Bilyeu, Bock, Brackett, Broadsword, Cameron, Coiner, Corder, Darrington, Davis, Fulcher, Geddes, Goedde, Hammond, Heinrich, Hill, Jorgenson, Kelly, Kerby (Keough), LeFavour, Lodge, Malepeai, McGee, McKague, McKenzie, Mortimer, Pearce, Schroeder, Siddoway, Smyser, Stegner, Stennett (Stennett), Winder. Total - 34.

NAYS–None.

Absent and excused–Werk. Total - 1.

Total - 35.

Whereupon the President declared [H 408](#) passed, title was approved, and the bill ordered returned to the House.

[H 411](#) was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Coiner arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES–Andreason, Bair, Bilyeu, Bock, Brackett, Broadsword, Cameron, Coiner, Corder, Darrington, Davis, Fulcher, Geddes, Goedde, Hammond, Heinrich, Hill, Jorgenson, Kelly, Kerby (Keough), LeFavour, Lodge, Malepeai, McGee, McKague, McKenzie, Mortimer, Pearce, Schroeder, Siddoway, Smyser, Stegner, Stennett (Stennett), Winder. Total - 34.

NAYS–None.

Absent and excused–Werk. Total - 1.

Total - 35.

Whereupon the President declared [H 411](#) passed, title was approved, and the bill ordered returned to the House.

[H 450](#) was read the third time at length, section by section, and placed before the Senate for final consideration. Acting Senator Stennett arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES–Andreason, Bair, Bilyeu, Bock, Brackett, Broadsword, Cameron, Coiner, Corder, Darrington, Davis, Fulcher, Geddes, Goedde, Hammond, Heinrich, Hill, Jorgenson, Kelly, Kerby (Keough), LeFavour, Lodge, Malepeai, McGee, McKague, McKenzie, Mortimer, Pearce, Schroeder, Siddoway, Smyser, Stegner, Stennett (Stennett), Winder. Total - 34.

NAYS–None.

Absent and excused–Werk. Total - 1.

Total - 35.

Whereupon the President declared [H 450](#) passed, title was approved, and the bill ordered returned to the House.

President Little called President Pro Tempore Geddes to the Chair.

[H 446](#) was read the third time at length, section by section, and placed before the Senate for final consideration. Senator McKenzie arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES–Andreason, Bair, Bilyeu, Bock, Brackett, Broadsword, Cameron, Coiner, Corder, Darrington, Davis, Fulcher, Geddes, Goedde, Hammond, Heinrich, Hill, Jorgenson, Kelly, Kerby (Keough), LeFavour, Lodge, Malepeai, McGee, McKague, McKenzie, Mortimer, Pearce, Schroeder, Siddoway, Smyser, Stegner, Stennett (Stennett), Winder. Total - 34.

NAYS–None.

Absent and excused–Werk. Total - 1.

Total - 35.

Whereupon the President Pro Tempore declared [H 446](#) passed, title was approved, and the bill ordered returned to the House.

On request by Senator Coiner, granted by unanimous consent, [H 469](#) retained its place on the Third Reading Calendar for one legislative day.

[H 484](#) was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Smyser arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES–Andreason, Bair, Bilyeu, Bock, Brackett, Broadsword, Cameron, Coiner, Corder, Darrington, Davis, Fulcher, Geddes, Goedde, Hammond, Heinrich, Hill, Jorgenson, Kelly, Kerby (Keough), LeFavour, Lodge, Malepeai, McGee, McKague, McKenzie, Mortimer, Pearce, Schroeder, Siddoway, Smyser, Stegner, Stennett (Stennett), Winder. Total - 34.

NAYS—None.

Absent and excused—Werk. Total - 1.

Total - 35.

Whereupon the President Pro Tempore declared [H 484](#) passed, title was approved, and the bill ordered returned to the House.

[H 494](#) was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Bock arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES—Andreason, Bair, Bilyeu, Bock, Brackett, Broadsword, Cameron, Coiner, Corder, Darrington, Davis, Fulcher, Geddes, Goedde, Hammond, Heinrich, Hill, Jorgenson, Kelly, Kerby (Keough), LeFavour, Lodge, Malepeai, McGee, McKague, McKenzie, Mortimer, Pearce, Schroeder, Siddoway, Smyser, Stegner, Stennett (Stennett), Winder. Total - 34.

NAYS—None.

Absent and excused—Werk. Total - 1.

Total - 35.

Whereupon the President Pro Tempore declared [H 494](#) passed, title was approved, and the bill ordered returned to the House.

President Little returned to the Chair.

On request by Senator Stegner, granted by unanimous consent, [H 444](#), as amended, retained its place on the Third Reading Calendar for one legislative day.

[H 493](#) was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Fulcher arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

On request by Senator Fulcher, granted by unanimous consent, [H 493](#) was referred to the Fourteenth Order of Business, General Calendar.

[H 544](#) was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Stegner arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES—Bair, Bilyeu, Bock, Brackett, Broadsword, Cameron, Coiner, Corder, Darrington, Davis, Fulcher, Geddes, Goedde, Hammond, Heinrich, Hill, Jorgenson, Kelly, Kerby (Keough), LeFavour, Lodge, Malepeai, McGee, McKague, McKenzie, Mortimer, Pearce, Schroeder, Siddoway, Smyser, Stegner, Stennett (Stennett), Winder. Total - 33.

NAYS—None.

Absent and excused—Andreason, Werk. Total - 2.

Total - 35.

Whereupon the President declared [H 544](#) passed, title was approved, and the bill ordered returned to the House.

On request by Senator Davis, granted by unanimous consent, all Senate bills were placed at the head of the Third Reading Calendar, followed by House bills amended in the Senate, followed by House bills.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Fifteenth Order of Business.

Miscellaneous Business

On motion by Senator Davis, seconded by Senator Kelly, by voice vote, the Senate adjourned at 12:02 p.m. until the hour of 10:30 a.m., Friday, March 12, 2010.

BRAD LITTLE, President

Attest: JEANNINE WOOD, Secretary